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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,389	09/25/2001	Klaus Hunlich	449122010500	5499
25227	7590	04/06/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102				BURLESON, MICHAEL L
ART UNIT		PAPER NUMBER		
		2626		

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/961,389	HUNLICH, KLAUS	
	Examiner	Art Unit	
	Michael Burleson	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 September 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Information Disclosure Statement

1. The information disclosure statements (IDS) was submitted on September 25, 2001, February 25, 2003 and January 22, 2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner.

Drawings

2. The drawings are objected to because notations in the drawings need to be translated into English. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered

and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy US 6028679.
3. Regarding claim 1, Murphy teaches of transmitting fax data from one fax machine (14) to another fax machine (26), which reads on a method of transmitting from at least one first subscriber to at least one second subscriber. Murphy teaches that a fax machine (14) that is connected to an ecom (16), which is connected to a POTS line (18) (column 2,lines 58-63), this reads on establishing a real-time connection to at least one first intermediate station and transmitting data to the first intermediate station.

Murphy teaches that the electronic mail agent server (20) sends the data to a remote electronic mail agent server (22) (column 2,lines 63-67), which reads on forwarding, from the at least one first intermediate station, the data to at least one second intermediate station over a connection which at least in part does not support real-time transmission. Murphy teaches that the remote electronic mail agent server (22) is connected to a POTS line (24) which is connected to an ecom (16) to a fax machine (26) (column 2,lines 63-67 and column 3,lines 1-3), this reads on establishing real-time connection between the at least one second subscriber and the at least one second intermediate station, and transmitting the data to the at least one second subscriber.

4. Regarding claim 2, Murphy teaches that server return codes acknowledge that the message was received (column 5,lines 22-24), which reads on reception of the data of the at least one first subscriber by the at least one first intermediate station is acknowledged.

5. Regarding claim 3, Murphy teaches that server return codes acknowledge that the message was received (column 5,lines 22-24), which reads on reception of the data by the at least one second subscriber is acknowledged to the at least one second intermediate station. The device discussed in Murphy is located on the receiving side of the network.

6. Regarding claim 4, claim 4 is effectively the realization of the combination of the limitations of claims 2 and 3 and therefore is rejected for the same reasons above.

7. Regarding claim 5, Murphy teaches that the ecom (16) software is based on TCP/IP protocol (column 4,lines 31-33, figures 1 and 8), which reads on the at least one

first intermediate station forwards the data to the at least one second intermediate station over a network at least in part based on TCP/IP.

8. Regarding claim 6, Murphy teaches of an ecom (16), which is located on the transmission and reception side of the network (column 4,lines 21-55 and figure 8). The ecom (16) reads on the at least one first intermediate station and the at least one second intermediate station act in the form of a proxy.

9. Regarding claim 7, Murphy teaches of transmitting fax data from one fax machine (14) to another fax machine (26) over a POTS line (18, 24), which reads on an intermediate station sending data from at least one first subscriber to at least one second subscriber, the subscribers having a real-time communication link. Murphy teaches that an ecom (16) which is connected to an electronic mail agent server (20) sends the data to a remote electronic mail agent server (22) thru an internet global area network (12) (column 2,lines 63-67 and figure 1), which reads on at least one first intermediate station forwarding data to at least one second intermediate station over a connection which at least in part does not support real-time transmission.

Murphy teaches that the remote electronic mail agent server (22) is connected to a POTS line (24) which is connected to an ecom (16) to a fax machine (26) (column 2,lines 63-67 and column 3,lines 1-3), this reads on a real-time connection is established between the at least one second subscriber and the at least one second intermediate station, and the data is transmitted to the least one second subscriber.

10. Regarding claim 8, Murphy teaches of an ecom (16), which is located on the transmission and reception side of the network (column 4,lines 21-55 and figure 8). The

ecom (16) reads on the at least one first intermediate station and the at least one second intermediate station act in the form of a proxy.

11. Regarding claim 9, Murphy teaches that the ecom (16) software is based on TCP/IP protocol (column 4,lines 31-33, figures 1 and 8), which reads on the communication link is a connection of a TCP/IP-based network.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy US 6028679 in view of Otsuka et al. US 6700674.

14. Regarding claim 10, Murphy teaches of transmitting fax data from one fax machine (14) to another fax machine (26), which reads on a method of transmitting from at least one first subscriber to at least one second subscriber. Murphy teaches that a fax machine (14) that is connected to an ecom (16), which is connected to a POTS line (18) (column 2,lines 58-63), this reads on establishing a real-time connection to at least one first intermediate station and transmitting data to the first intermediate station.

Murphy teaches that the electronic mail agent server (20) sends the data to a remote electronic mail agent server (22) (column 2,lines 63-67), which reads on forwarding,

from the at least one first intermediate station, the data to at least one second intermediate station over a connection which at least in part does not support real-time transmission. Murphy teaches that the remote electronic mail agent server (22) is connected to a POTS line (24) which is connected to an ecom (16) to a fax machine (26) (column 2,lines 63-67 and column 3,lines 1-3), this reads on establishing real-time connection between the at least one second subscriber and the at least one second intermediate station, and transmitting the data to the at least one second subscriber.

15. Murphy fails to teach of the communication link between the at least one first subscriber and at least one second subscriber is a real-time link.

16. Otsuka et al. teaches that facsimile apparatus (1) is connected to facsimile apparatus (44) are connected through a public communication switched network (32) (column 10,lines 1-13), which reads on the communication link between the at least one first subscriber and at least one second subscriber is a real-time link.

The transmission network of Murphy could have been modified to transmit data via a public communication switched network of Otsuka et al. This modification would have been obvious to one of ordinary skill in the art at the time of the invention in order to transmit data using a real-time network.

Conclusion

Any inquiry concerning this communication should be directed to Michael Burleson whose telephone number is (571) 272-7460 and fax number is (571) 273-7460. The examiner can normally be reached Monday thru Friday from 8:00 a.m. – 4:30p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached at (571) 272-7471

Michael Burleson
Patent Examiner
Art Unit 2626

MB

Mlb
April 3, 2005

Scott Rogers
SCOTT ROGERS
PRIMARY EXAMINER